

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**TODD LACKIE, and wife,
ALICIA LACKIE**

Plaintiffs,

v.

No. 2:11-cv-02181

**E.I. DUPONT DE NEMOURS and
COMPANY, and MID-SOUTH RAIL &
CONSTRUCTION, LLC**

Defendants

**DEFENDANT MID-SOUTH RAIL & CONSTRUCTION, LLC'S MOTION FOR
SUMMARY JUDGMENT**

Defendant Mid-South Rail & Construction, LLC, ("MSR" or "Defendant") pursuant to Rule 56 of the Federal Rules of Civil Procedure hereby files its Motion for Summary Judgment and requests that the court dismiss Plaintiffs' Amended Complaint in its entirety, for the following reasons:

1. Plaintiffs have failed to demonstrate that MSR selected, owned, or controlled the switch stands at the DuPont facility, or that it negligently maintained or repaired said switch stands.

2. Plaintiffs have failed to establish that MSR had a duty to recommend new products to DuPont.

3. Plaintiffs have failed to prove that any negligence of MSR caused Plaintiff Todd Lackie's alleged injury.

4. Plaintiffs have failed to prove that the charges for medical services were reasonable.

5. Plaintiffs have failed to establish that MSR is liable under a premises liability theory.

6. Plaintiff Todd Lackie was at least fifty percent (50%)n at fault for the accident and his subsequent alleged injury, if any.

Based on the foregoing reasons, MSR submits that there is no genuine issue as to any material fact and that Defendant is entitled to a judgment in its favor as a matter of law. In support of its Motion for Summary Judgment, Defendant relies on the Memorandum in Support as well as the Concise Statement of Material Facts Not in Dispute and attachments filed with Defendant's Motion for Summary Judgment.

Defendant requests that oral arguments be heard on this matter.

Respectfully submitted,

**LEITNER, WILLIAMS, DOOLEY &
NAPOLITAN, PLLC.**

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of April 2012, a copy of the foregoing electronically filed instrument was served on the parties listed below by first-class mail,

postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice and the Notice of Electronic Filing indicates that Notice was electronically mailed to said party, and/or via email:

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